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OFFICE OF PETITIONS

Applicant: Alenfalk et al.

Appl. No.: 10/596,731

International Filing Date: December 21, 2004

Title: DIPHENYLAZETIDINONE DERIVATIVES POSSESSING CHOLESTEROL
ABSORPTION INHIBITORY ACTIVITY

Attorney Docket No.: 133087.10701(101340-1PUS)

Pub. No.: US 2008/0064676 A1

Pub. Date: March 13, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 9, 2008, for the above-identified application.

The request is DISMISSED.

37 CFR 1.221 (b) is applicable “only when the Office makes a **material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months from the date of the patent application publication**. This period is not extendable.” (emphasis added) A material mistake must affect the public’s ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The paper is submitted on July 9, 2008 is unsigned. See 37 CFR 1.4 and 37 CFR 1.33.

The request of July 9, 2009 was not timely filed. The time allotted by 37 CFR 1.221(b) expired on May 13, 2009, two months from the March 13, 2009 date of the patent application publication. Since the request was made outside the time period set forth in 37 CFR 1.221(b), relief is not available under that section to requester.

For future reference, applicant’s attention is directed to MPEP 1121, which states in part: “applications with poor quality text, which may be acceptable for scanning and examination purposes, may lead to errors in the patent application publication. Correction of these errors and

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

inclusion of any desired amendments into the text of the originally-filed specification and drawings will only occur if applicant files a request for republication under 37 CFR 1.221(a). They will not be corrected by the Office in a corrected publication under 37 CFR 1.221(b).” Applicant’s attention is further directed to MPEP 1130(B), which states in part: “[a]pplicants should not file requests for corrected publication that include no material error made by the Office. . . . A failure to include an amendment is not an Office error.”

The applicant is advised that a “request for republication of an application previously published” may be filed under 37 CFR 1.221 (a). Such a request for republication “must include a copy of the application compliance with the Office’s electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i).” If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

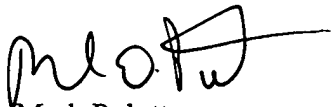
Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a “Pre-Grant Publication” and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
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A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

<http://www.uspto.gov/ebc/portal/tutorials.htm>

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.



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